

BUREAU OF AUTOMOTIVE REPAIR

INITIAL STATEMENT OF REASONS

HEARING DATES:

June 14 and 16, 2006

**SUBJECT MATTER OF
PROPOSED REGULATIONS:**

Consumer Assistance Program; Low-Income
Eligibility and Application Form Revisions

SECTIONS AFFECTED:

§§ 3394.4 and 3394.6 of Title 16, Division 33,
Chapter 1, Article 11 of the California Code of
Regulations

SPECIFIC PURPOSE OF REGULATORY PROPOSAL:

This proposed regulatory action seeks to increase low-income eligible motor vehicle owner participation in the Repair Assistance (RA) option of the Consumer Assistance Program (CAP). This will be accomplished by increasing the household income eligibility level for low-income motor vehicle owners to two hundred twenty-five percent (225%) of the federal poverty guideline (FPG), as authorized by AB 383 (Montanez, Chapter 565, Statutes of 2005).

The proposed action also seeks to reduce air pollution caused by high polluting and gross polluting vehicles. According to the Breathe Easier Web site's fact sheet located at www.BreatheEasier.ca.gov, these vehicles are estimated to be responsible for more than half of all vehicle-produced smog. Reducing the emissions from high polluting and gross polluting vehicles through the RA option of CAP will help to improve California's air quality and assist the state in meeting its federal clean air goals.

The proposed action also includes several minor technical, grammatical and editorial changes, including revisions to the CAP application form, that have no regulatory effect or that are conforming.

The proposed action will make the following changes to existing regulation:

1. Amend subparagraph (A) of paragraph (2) of subsection (a) of Section 3394.4, to increase the household income eligibility level to 225% of the FPG until December 31, 2008 and to revert to 185% of the FPG beginning January 1, 2009. In addition, several grammatical and editorial changes will be made throughout Section 3394.4 to clarify its provisions.

Expanding the household income eligibility requirement for participation in the RA option, in accordance with AB 383, will make RA available to a greater number of California motor vehicle owners. The reversion to 185% of the FPG beginning January 1, 2009 conforms to the provisions of AB 383.

AB 383 authorizes the Department of Consumer Affairs (DCA) to increase the household eligibility standards to 225% if it determines that the increase can be supported within the existing budget allocations. It has been determined that existing resources are sufficient to support the increase.

By assisting more low-income vehicle owners to repair their vehicles and bring them into compliance with applicable emissions standards, the RA option of CAP will help to reduce the number of vehicles operated on California's streets and highways with excessive emissions. Repairing these non-complying vehicles that might otherwise continue to be driven without being registered, will contribute to improvements in California's air quality and assist in meeting federal clean air goals.

The grammatical and editorial changes in Section 3394.4 do not modify any requirement, right, responsibility, condition, prescription or other regulatory element and, therefore, have no regulatory effect.

2. The CAP application form will be revised to conform to the increased household income eligibility level. The revisions will also include other nonsubstantive grammatical and editorial changes. These changes to the CAP application will also result in a change to the application revision date. These changes do not modify any requirement, right, responsibility, condition, prescription or other regulatory element and, therefore, do not have any regulatory effect.
3. Amend subsection (a) of Section 3394.6 to reflect the new revision date for the CAP application form incorporated by reference therein.

Because this application is specifically mentioned in subsection (a) of Section 3394.6, and is incorporated by reference, the revision date must also be changed in that subsection. Since this change is editorial and does not modify any requirement, right, responsibility, condition, prescription or other regulatory element, this change has no regulatory effect.

FACTUAL BASIS:

The Bureau of Automotive Repair (Bureau), located within DCA, is the state agency charged with the administration and implementation of the Smog Check Program (Program). The Program is designed to reduce emissions from mobile sources, such as passenger vehicles and light trucks, by requiring that these vehicles meet specific in-use emissions standards as verified by periodic inspections. To ensure uniform and consistent vehicle testing, the Bureau licenses Smog Check stations and technicians and certifies inspection equipment.

The Bureau is also charged with the implementation and administration of the CAP, which includes both a RA option and a Vehicle Retirement option. The RA option is designed to offer financial assistance to eligible individuals whose vehicles have failed a biennial Smog Check inspection and whose household income falls at or below a specified amount based on the Federal Poverty Guidelines (FPG), or those individuals whose vehicles have been directed to a Test-Only Smog Check station and have failed.

Prior to January 1, 2006, the maximum household income was one hundred eighty-five percent (185%) of the FPG. AB 383, effective January 1, 2006, increased the base percentage to two hundred percent (200%), with a provision allowing DCA to further increase the percentage to a maximum of two hundred twenty-five percent (225%), under specified conditions. This regulatory action proposes to increase that maximum household income to 225% of the FPG.

Other provisions for participation, which will remain unchanged, require that the applicant be one or a combination of the following:

1. The owner of a motor vehicle that has failed a biennial Smog Check inspection.
2. The owner of a motor vehicle who was issued a notice to correct for an alleged violation of Section 27153 or 27153.5 of the Vehicle Code involving that vehicle, if the vehicle subject to that notice has failed a Smog Check inspection subsequent to receiving the notice.
3. The owner of a motor vehicle that has failed a biennial Smog Check inspection and is directed to a test-only facility, pursuant to Section 44010.5 or 44014.7.

DCA is required to offer RA, funded by the High Polluter Repair or Removal Account in the Vehicle Inspection and Repair Fund, to individuals based on the cost-effectiveness and air quality benefit of the needed repair. RA may include re-testing costs and the costs of repairs to remedy a violation of Section 27153 or 27153.5 of the Vehicle Code.

The applicant for RA shall file an application on a form prescribed by DCA and shall certify under penalty of perjury that the applicant meets the applicable eligibility standards. Verification of low-income eligibility shall be based on at least one form of documentation, as determined by DCA, including but not limited to an income tax return, an employment warrant, or a form of public assistance verification.

Repairs to motor vehicles that fail a biennial Smog Check inspection are based upon a pre-approved list of repairs for cost-effective emission reductions or repairs to remedy a violation of Section 27153 or 27153.5 of the Vehicle Code.

The purpose of the RA option is to:

- Provide eligible consumers with financial assistance for the repair of their vehicles that have failed a biennial Smog Check inspection, or who have been issued a notice to correct for an alleged smog-related violation if the vehicle subject to that notice has failed a Smog Check inspection subsequent to receiving the notice, or the owner of a motor vehicle that has failed

a biennial Smog Check inspection and is directed to a Test-Only station.

- Encourage greater low-income consumer participation in the RA option of CAP in order to help decrease the number of high polluting vehicles being operated in California.
- Help California achieve the emissions reduction objectives established in the State Implementation Plan (SIP).
- Help the Smog Check Program demonstrate equivalency with federal regulatory standards.

Underlying Data:

Technical, theoretical or empirical studies or reports relied upon:

1. Estimated Consumer Participation Increase:
Based on historical program data, it has been estimated that expanding the household income eligibility level from 185% to 225% FPG will contribute to a 65% growth in participation. The estimates are documented in a chart – *Estimated Consumer Participation in CAP's Repair Assistance Option*, October 4, 2005.
2. Projected Expenditure Increase:
Based on the estimated consumer participation increase, it is estimated that increasing the household income eligibility level from 185% to 200% FPG would increase RA expenditures by approximately \$2,848,312, and that increasing the household income eligibility level to 225% would increase RA expenditures by approximately \$3,533,844. These expenditure increases are also included in the October 4, 2005 chart referenced above.
3. Estimated Emissions Reduction Increases:
Using the BAR Engineering Division's formula to calculate emissions reductions, it is estimated that the repair of an additional 8,361 vehicles resulting from the expansion of the household income eligibility standard will produce emissions reductions of 112.9 tons per year (68.4 tpy of HC and 44.5 tpy of NO_x).
4. Current and Projected Fund Condition Analysis:
A fund condition analysis prepared by DCA's Budget Office on January 3, 2006 indicates that the High Polluter Repair or Removal Account will have a projected \$39.92 million reserve as of June 30, 2006. This will cover the projected 65% consumer participation increase in RA as a result of expanding the household income eligibility requirement to 225% FPG.
5. Current Federal Poverty Guidelines:
U.S. Department of Health and Human Services Poverty Guidelines, Federal Register, Vol. 71, No. 15, January 24, 2006, pp. 3848-3849.
6. Consumer Assistance Program Application Revisions:

Description of the changes in the CAP application form, dated 04/13/06, comparing CAP/APP (02/02) to CAP/APP (03/05).

Business Impact:

These regulations will not have any adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The proposed action does not impose any requirement upon or require any action by any business. There is no reporting or recordkeeping requirement mandated, nor are there any performance standards imposed, technologies or equipment specified, nor specific actions or procedures prescribed.

This regulatory action is designed to expand the income eligibility requirements for low-income consumers to participate in the RA option. It is intended that a greater number of working poor families will become eligible as a result of this proposed amendment, and consequently, California's air quality will improve.

Specific Technologies or Equipment:

These regulations do not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Increase the household income eligibility level for participation in the RA option to the minimum amount authorized by AB 383 – 200% of the FPG. This alternative was rejected because AB 383 authorizes DCA to increase the household income eligibility level to 225% of the FPG, if DCA determines that the increase is capable of being supported within existing budget allocations. It has, in fact, been determined that existing budget allocations are sufficient to support the anticipated participation in the RA option at the maximum eligibility level of 225% of the FPG. In addition, based on the 2006 FPG, it can be argued that the difference between the maximum annual gross household income, for example, of a family of four at 200% of the FPG (currently \$40,000) and the same family of four at 225% of the FPG (currently \$45,000) is less than 9 percent. This is a negligible difference and yet allows CAP to reach a larger percentage

of consumers who are most likely to have high polluting vehicles, and to be in need of financial assistance to repair their vehicles.

2. Increase the household income eligibility level for participation in the RA option to an amount between 201% and 224% of the FPG, as authorized by AB 383. This alternative was rejected for essentially the same reasons that the alternative above was rejected.